

dana@danaoliverlaw.com  
OLIVER LAW CENTER, INC.  
8780 19th Street #559  
Rancho Cucamonga, CA 91701  
Telephone: (855)384-3262  
Facsimile: (888)570-2021

*Attorney for Plaintiff and the Proposed  
Class*

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

PAUL RYAN, individually and on  
behalf of all others similarly situated,

*Plaintiff,*

v.

WILSHIRE LAW FIRM. P.L.C.  
*Defendant.*

*DISCOVERY MATTER*

*PRESENTED TO MAGISTRATE  
JUDGE MARGO ROCCONI*

Case No. 2:24-cv-08816-  
CV-MAR

**PLAINTIFF'S MOTION  
TO COMPEL  
DISCOVERY FROM  
DEFENDANT  
PURSUANT TO LR 37-2**

**Date and Time of Motion  
Hearing: June 11, 2025**

**Discovery Cutoff date:**  
[Not Yet Set]

**Pre-Trial Conference  
date:** [Not Yet Set]

**Trial date:** [Not Yet Set]

## **INTRODUCTION**

Pursuant to LR 37-2, the Plaintiff Paul Ryan submits the following Stipulation and accompanying Notice of Motion to compel discovery responses for classwide calling records, which Defendants have failed to produce. Indeed, the Defendant has not produced complete calling data even for the named Plaintiff. Defendant was served the instant Discovery on February 13, 2025. *See Exhibit 1.* After the grant of a month's extension, Defendant responded to the discovery on April 16, 2025. This motion to compel follows nearly a month of meet and confers and correspondences regarding the missing call records. The only way to ensure that the documents will be received now is through a Court Order.

To ascertain the number of calls sent to the Plaintiff and the putative class, including by *two separate telephone service companies used by the Defendant*, and to ensure an expert analysis can be completed, including as to how many calls were made with prerecorded messages and to numbers which never consented or opted out, the Plaintiff is also moving to compel a complete response to Request for Production ("RFP") No. 17. The information sought through RFP No. 17 is *central* to the claims at issue here because it seeks the calling records outlining each of the calls Defendant sent to the Plaintiff and each class member. In a telemarketing case alleging violations of the TCPA, the Plaintiff is unquestionably entitled to this most

1 basic evidence outlining the telemarketing calls that the Defendant made that are the  
2 subject of the Complaint.

### 3 **BACKGROUND AND OVERVIEW**

4  
5 As the Supreme Court has explained, “Americans passionately disagree  
6 about many things. But they are largely united in their disdain for robocalls. The  
7 Federal Government receives a staggering number of complaints about robocalls—  
8 3.7 million complaints in 2019 alone. The States likewise field a constant barrage  
9 of complaints. For nearly 30 years, the people’s representatives in Congress have  
10 been fighting back. As relevant here, the Telephone Consumer Protection Act of  
11 1991, known as the TCPA, generally prohibits robocalls to cell phones and home  
12 phones.” *Barr v. Am. Ass’n of Political Consultants*, 140 S. Ct. 2335, 2343 (2020).  
13  
14  
15

16 Plaintiff has brought this action against Defendant Wilshire Law Firm for  
17 violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”)  
18 for making what third-party discovery has revealed to be close to 500 prerecorded  
19 telemarketing calls to his own cellular telephone number, without consent, and  
20 after having expressly requested they stop. *See* ECF No. 1. The Plaintiff is seeking  
21 to represent the following class:  
22  
23

24 **Robocall Class:** All persons within the United States: (1) to whose  
25 cellular telephone number (2) Wilshire (or an agent acting on behalf  
26 of Wilshire) placed a call (3) within the four years prior to the filing of  
27 the Complaint (4) using a pre-recorded message.  
28

1 *Id.* at ¶ 27. To explore the scope of the calling conduct, the Plaintiff served  
2 Defendant with discovery seeking, among other things, records of the calls they  
3 placed. Despite a meet and confer regarding the same, complete responses have not  
4 been provided with respect to the Plaintiff, let alone the entire putative class.  
5

6 **MEET AND CONFER CERTIFICATION PURSUANT TO LR 37-1**  
7

8 Counsel for the Plaintiff initiated the meet and confer process by email  
9 correspondence on April 22, 2025. The parties conducted an audiovisual meet and  
10 confer on April 30, 2025. With respect to the results of that meet and confer on the  
11 request at issue, the parties agreed to limit production to encompass non-clients of  
12 Wilshire owing to privilege issues. However, the parties could not agree as to the  
13 purposes or limitations of production, with Defendant being willing to produce the  
14 documents for mediation purposes only, a demand to which Plaintiff cannot agree.  
15  
16  
17

18 **ISSUE 1: Records of Defendant's Telemarketing Calls are Relevant and**  
19 **Necessary to Discovery and Should be Produced.**

20 **PLAINTIFF'S POSITION**  
21

22 Request for Production No. 17 seeks from Defendant:

23 Please produce all documents containing any of the following information  
24 for each outbound telemarketing call sent by you or your vendor, including  
25 those made to the Plaintiff:

- 26 a) the date and time;  
27 b) the caller ID;  
28 c) any recorded message used;  
d) the result;

1 e) identifying information for the recipient; and any other information  
2 stored by the call detail records.

3 Exhibit 1. These documents are referred to as “Call Records”. The Call  
4 Records Plaintiff seeks go to the heart of this matter, as in order to prove his and the  
5 Class claims, the Plaintiff must demonstrate that (1) the defendant called a cell  
6 phone; (2) using an artificial or prerecorded voice; (3) without the recipient’s prior  
7 express consent. *L.A. Lakers, Inc. v. Fed. Ins. Co.*, 869 F.3d 795, 803-04 (9th Cir.  
8 2017). As such, the calling records will establish whether cell phones will called,  
9 whether those calls were made with prerecorded voices, the number of calls, and can  
10 be cross-referenced with other evidence to establish whether consent existed.  
11

12  
13 Notably, the class Plaintiff pleads, by definition, is not limited to or even  
14 linked to consent, nor is it limited to persons, like Plaintiff, who also revoked any  
15 putative consent. As this is a class action, such information is relevant to the  
16 numerosity, commonality, typicality, and predominance elements of Rule 23 with  
17 respect to the claims and class definition and the calculation of class-wide damages,  
18 and to Defendant’s affirmative defenses. It should not, therefore, be limited as to  
19 only those class members who revoked their consent.  
20  
21  
22

23 As an initial matter, where defendants contest elements of Rule 23 in proposed  
24 class actions under the TCPA, courts routinely require the production of information  
25 necessary to support those requirements. *See, e.g., Cahill v. GC Servs. Ltd. P’ship*,  
26 No. 3:17-cv-01308-GPCMD, 2018 WL 1791910, at \*4 (S.D. Cal. Apr. 16, 2018)  
27  
28

1 (“RFPs 10-13 and 18 are relevant at least to the issues of numerosity and  
2 commonality. The lists are reasonably calculated to identify the number of recipients  
3 of calls made during the class period, which is crucial to determine whether the class  
4 is so numerous to make joinder impracticable. The call lists are also relevant to the  
5 commonality requirement under Rule 23(a), for which plaintiff must show the class  
6 ‘suffered the same injury ... such that the ... class claims will share common  
7 questions of law or fact’ with those of the named plaintiffs.”); *Mbazomo v.*  
8 *ETourandTravel, Inc.*, No. 2:16-CV-02229-SB, 2017 WL 2346981, at \*5 (E.D. Cal.  
9 May 30, 2017) (compelling the production of call data because “the Court agrees  
10 with the weight of authority on this matter that call logs and dialing lists are relevant  
11 to the commonality prong of the class certification inquiry. The requested list would  
12 also be relevant to Plaintiff’s need to show numerosity.”) (cleaned up).

13  
14  
15  
16  
17  
18 In the same vein, “[o]utbound dial lists are relevant to establish the issues of  
19 numerosity and commonality under Federal Rule of Civil Procedure 23(a) and are  
20 therefore discoverable.” *Thomas v. Fin. Corp. of Am.*, No. 3:19-CV-152-E, 2019  
21 WL 5157022, at \*1 (N.D. Tex. Oct. 10, 2019) (compelling the production of similar  
22 data sought here); *Doherty v. Comenity Capital Bank & Comenity Bank*, No.  
23 16CV1321-H-BGS, 2017 WL 1885677, at \*4 (S.D. Cal. May 9, 2017) (“The Court  
24 finds that outbound dial lists are relevant to establish the issues of numerosity and  
25  
26  
27  
28

1 commonality under Federal Rule of Civil Procedure 23(a) and are therefore  
2 discoverable.”).

3 Not surprising, then, is that courts across the country, including in this circuit,  
4 routinely compel TCPA class action defendants to provide analogous information  
5 relevant to the sizes of proposed classes. As one court summarized when granting a  
6 motion to compel for the calling records in a TCPA case:  
7

8  
9 This information will assist Plaintiff’s experts in determining which  
10 phone numbers were tied to cellular phones, which calls were for  
11 telemarketing purposes, which numbers were on the National Do Not  
12 Call Registry (“NDNCR”) and which calls were made using an  
13 automatic telephone dialing system (“ATDS”). The information is  
14 therefore relevant to the numerosity, commonality, and typicality  
15 inquiries the Court will undertake to decide Plaintiff’s motion for class  
16 certification under Rule 23.

17 *See Mey v. Frontier Commc’ns Corp.*, No. 13-cv-01191-MPS, ECF No. 102 (D.  
18 Conn. Dec. 5, 2014). Here, like *Mey*, the Plaintiff, or his expert, will determine  
19 which calls contain criteria which qualify them for membership in the class in  
20 order to prepare this case for class certification. Because the sought-after Call  
21 Records are plainly relevant to contested elements of Rule 23, including  
22 numerosity, this Court should compel their production.

23 Separately, the Defendant’s production is also deficient, even to the extent  
24 that it pertains to the Plaintiff. In response to this request, Defendant produced a two-  
25 page spreadsheet entitled “Prerecorded Messages Sent to Paul Ryan,” a redacted  
26 version of which is attached herein as Exhibit B, and indicated that it used two  
27  
28

1 services, Convoso and SlyDial, to make the calls. But Defendant didn't distinguish  
2 between what calls were placed with Convoso and which were placed with SlyDial,  
3 nor did the Defendant even produce the entire volume of calling conduct. To the  
4 contrary, a third-party subpoena to Convoso revealed almost 500 calls made to the  
5 Plaintiff *alone*, none of which appear on the Defendant's production, which is clearly  
6 incomplete. Even with respect to the Plaintiff, it is evident that the Defendant has  
7 not made a complete production. The Court should compel the Defendant to produce  
8 all the calling records in its possession or control, both with respect to the Class and  
9 the Plaintiff, with the Defendant permitted to redact records of calls made to its  
10 clients.  
11

#### 12 DEFENDANT'S POSITION

13  
14 Wilshire objects to the request at issue because it is extremely overbroad and  
15 compels the production of privileged information.  
16

17  
18 First, the request is overbroad on its face. It calls for all outbound calling  
19 records for calls made by Wilshire and any of its vendors to any prospective client  
20 unlimited in time or scope. The overwhelming majority of these calls are not at  
21 issue due to the parameters of Plaintiff's own complaint and are therefore not  
22 relevant to this case. As Plaintiff admits, the only calls at issue are those that  
23 Wilshire made within the last four years, to a cell phone, using an artificial or  
24 prerecorded voice, without the recipient's prior express consent. Complaint ¶ 27.  
25  
26  
27  
28



1 Moreover, the purported class representative, Paul Ryan, asserts that he revoked  
2 his consent and continued to receive calls. Thus, it is Wilshire's position that the  
3 purported class is a "revocation class" and can only include consumers similarly  
4 situated to Ryan, who revoked their consent and continued to receive calls. On its  
5 face, Plaintiff's request, which seeks **all** telemarketing calls made by Wilshire or  
6 **any** of its vendors irrespective of time, type of phone, type of call, or consent or  
7 revocation status, is patently overbroad. Plaintiff does not require Wilshire's entire  
8 call history to establish its Rule 23 requirements for a putative class that is narrow  
9 in scope per the parameters of Plaintiff's own complaint.  
10  
11  
12

13 The cases Plaintiff cites from other jurisdictions have no bearing on the  
14 appropriateness of the specific discovery request at issue here. The quotes Plaintiff  
15 cherry picks provide no information on the parameters of the putative classes at  
16 issue or the specificity of the discovery requests. In fact, the quote from *Mey v.*  
17 *Frontier Commc'ns Corp.*, No. 13-cv-01191-MPS, ECF No. 102 (D. Conn. Dec. 5,  
18 2014) makes clear that the class at issue in that case included calls made to  
19 numbers on the National Do Not Call Registry and calls made using an automatic  
20 telephone dialing system, which encompass a much broader range of telemarketing  
21 calls than the prerecorded messages class at issue here. Plaintiff does not, and  
22 cannot, provide a basis for demanding all of Wilshire's call records when only a  
23  
24  
25  
26  
27  
28

1 very narrow subset of those calls fall within the purported class, which Plaintiff has  
2 not yet certified.

3 Further, this Request seeks information protected by the attorney/client  
4 privilege. This Request seeks not just call data such as date, time, and type of call,  
5 it requests the recorded message itself, identifying information of the recipient,  
6 “the result,” and “any other information stored by the call detail records.” These  
7 records will include the substantive messages sent to and received by Wilshire  
8 from current and prospective clients through Wilshire’s vendors’ platforms. These  
9 communications are textbook examples of privileged communications, as they are  
10 made in confidence for the purpose of securing legal advice from Wilshire. *See*  
11 *ChevronTexaco Corp.*, 241 F. Supp. 2d at 1069. Many of these communications  
12 also likely contain sensitive medical information provided to Wilshire by its  
13 prospective and current clients about those clients’ potential personal injury cases.

14 Nevertheless, Wilshire already provided to Plaintiff a list of all prerecorded  
15 messages sent to Paul Ryan by its vendors. During counsel’s meet and confer,  
16 Wilshire agreed to identify which calls were sent via which vendor. Wilshire also  
17 offered to produce all nonprivileged records of prerecorded messages sent during  
18 the class time period under a mediation privilege, and Plaintiff agreed. Wilshire  
19 disagrees that, at the meet and confer “the parties could not agree as to the  
20 purposes or limitations of production.”

1 Dated: May 16, 2025

2  
3  
4  
5 RESPECTFULLY SUBMITTED,  
6 BY:

7 /S/ ANDREW ROMAN PERRONG

8 ANDREW ROMAN PERRONG  
9 (PRO HAC VICE)  
10 (A@PERRONGLAW.COM)  
11 PERRONG LAW, LLC  
12 2657 MOUNT CARMEL AVENUE  
13 GLENSIDE, PA 19038  
14 OFFICE: 215-225-5529

15  
16  
17 TROUTMAN PEPPER LOCKE LLP

18  
19 By: /s/ Chad R. Fuller

20 Chad R. Fuller  
21 Jessamyn E. Vedro  
22 Virginia Flynn (pro hac vice)  
23 Christine Nowland  
24 Attorneys for Defendant  
25 WILSHIRE LAW FIRM, P.L.C.  
26  
27  
28

1                                   **ATTESTATION OF SIGNATURE**

2           Pursuant to Central District Local Rule 5-4.3.4(a)(2)(i), I hereby certify that  
3 the content of this document is acceptable to counsel for Defendants, and I obtained  
4 their authorization to affix their electronic signatures to this document.

5  
6 Dated: May 16, 2025

7                                   /s/ Andrew Roman Perrong  
8                                   Andrew Roman Perrong, Esq.

9  
10                                  **CERTIFICATE OF SERVICE**

11           I hereby certify that, on May 16, 2025, I caused the foregoing to be  
12 electronically filed with the Clerk using the CM/ECF system, which will send  
13 notification of such filing to all counsel of record.  
14

15  
16                                  /s/ Andrew R. Perrong  
17                                  Andrew R. Perrong